

# The CURE

Contract User's Resource for Excellence

*The "CURE" is a quarterly newsletter of the State Controller's Office*

Volume 9, Issue 5

February 2004

## News From The SCO A State Controller's Office Update

### CCIT MEETING

The February CCIT (Colorado Contract Improvement Team) meeting will be held on Wednesday, February 18th from 9:00 a.m. - 12:00 in Building 100 at Camp George West. Camp George West is located just East of Golden on Old Golden Road. The address is 15055 So. Golden Road. If you have questions about the meeting, please call a member of the Central Contract Unit. A map is located at [www.sco.state.co.us/cure.cure.htm](http://www.sco.state.co.us/cure.cure.htm).

An agenda is included on page 11.

**READ What's Inside  
this Issue — An  
update on state  
contracting**

### E-MAIL ADDRESS CHANGES

To make sure you do not miss an issue of the CURE or other important state contract information be sure that you keep your e-mail address current by sending changes to Kevin in the SCO CCU at:  
[kevin.cruise@state.co.us](mailto:kevin.cruise@state.co.us)

## Central Approvers Names and Numbers

### Department of Personnel & Administration (DPA)

#### State Controller's Office (SCO)

| Central Contract Unit: | Phone Number | Fax Number   |
|------------------------|--------------|--------------|
| Phil Holtmann          | 303-866-3809 | 303-866-4233 |
| Yvonne Anderson        | 303-866-2862 | 303-866-4233 |

#### Routing, Distribution and E-mail Updates:

|              |              |              |
|--------------|--------------|--------------|
| Kevin Cruise | 303-866-2127 | 303-866-3569 |
|--------------|--------------|--------------|

#### Statutory Violations:

|          |              |              |
|----------|--------------|--------------|
| John Ivy | 303-866-3765 | 303-866-3569 |
|----------|--------------|--------------|

#### Human Resource Services (DPA/HRS)

##### Personal Services Review Program:

|             |              |              |
|-------------|--------------|--------------|
| Joi Simpson | 303-866-5496 | 303-866-2458 |
|-------------|--------------|--------------|

#### State Buildings and Real Estate Programs

|                     |              |              |
|---------------------|--------------|--------------|
| Carol Lewis (SBREP) | 303-866-6135 | 303-894-7478 |
|---------------------|--------------|--------------|

|                    |              |              |
|--------------------|--------------|--------------|
| Donna Barr (REP)   | 303-866-4564 | 303-866-2201 |
| Clark Bolser (REP) | 303-866-4759 | 303-866-2201 |

#### State Purchasing (SPO)

|               |              |              |
|---------------|--------------|--------------|
| Monica Rahman | 303-866-6155 | 303-894-7440 |
|---------------|--------------|--------------|

#### Office of the Attorney General (AGO)

|                                |              |              |
|--------------------------------|--------------|--------------|
| Robert Bowers                  | 303-866-5027 | 303-866-4139 |
| Heidi Dineen                   | 303-866-5437 | 303-866-4139 |
| Bea Pagette                    | 303-866-5227 | 303-866-4139 |
| Tracy Kinsella (CDOT Attorney) | 303-866-5052 |              |

**NOTE:** You may e-mail any of the above by using the following format: **firstname.lastname@state.co.us**



**by the Division of Finance and Procurement**

In the Last *CURE*, we summarized the progress of CCIT and the various contracting initiatives in the state. Now we want to let you know what the central approvers are talking about in terms of improvements.

**The State Contracts Survey**

The response to the State Controller's September contracting survey was terrific: over 50 responses. We appreciate the time people took to give us feedback. Richard Pennington and Art Barnhart read all of the responses. The division provided the responses – with anonymity preserved -- to the Contracts Unit and the Office of the Attorney General. Overall we were pleased (although not satisfied) with the results. The unit received its highest rating – a “commendable rating” – on the first survey question:

The Contracts Unit strives to provide practical, timely guidance about acceptable contractual techniques to accomplish program objectives. How are we doing?

When we developed the survey, that question was placed first because the unit values its image as a resource. As good as most comments were, we know that there is room for improvement—always. In particular:

- a. A few of you asked that we consider the fiscal year timing when adopting fiscal rule changes that affect contracting. Fair comment!
- b. Some of you didn't understand why the modifications policy was being applied to contracts that had already been approved, vendors had signed, and the modification tools were already being used. This largely related to the modifications policy change. Loud and clear! While we develop policies to streamline the process and provide solutions that can reasonably be expected to be approved, we'll go slow before interfering with existing contracts – and amendments to them -- that have already been executed. Of course, sometimes statutory or other significant policy changes may dictate otherwise. But we'll work with you to mitigate impact.
- c. There was some confusion about the various roles of the central approvers. For example, why is a personal services contract approved by the Division of Human Resources, and then found legally insufficient by the AG? Likewise, why does the State Controller reject some contracts when the AG found them legally sufficient? This is an important issue that generates considerable continuing discussion between our offices, and we plan to share some of that with you at the next CCIT. On the agenda, you'll see a panel discussion to address those very issues and answer questions you may have. Don't be shy!

**Procurement and Contract Cycle Times**

Our state system of statutory requirements treats contracts and procurement separately. But our clients don't see the world that way. To them, all they know is it sometimes takes a long time to identify a requirement and get a vendor on contract (or purchase order) to satisfy it.

In September, Richard Pennington gave a presentation to the Deputies Forum (Deputy Executive Directors) to educate them about the cycle-time issues and progress that has been made. Richard has included this topic in his one-on-one meetings with CFOs at agencies and institutions (You'll know if he goes to your agency!). This subject also came up before the Joint Budget Committee last Fall, and our department provided similar information to shed light on perceptions that "it takes too long to contract; the system is too complicated." In the course of looking at the data, we learned things about the system that we would like to share with you.

Procurement is often the first cycle-time issue that arises. Kay Kishline and Richard did some analysis using data from the Bid Information and Distribution System (BIDS) and confirmed what they suspected. RFP's are used less than 10% of the time. The usage (computed from BIDS publication to notice of award) for the various solicitation types are:

**Solicitation Summary for FY2003 by Type, Dollar Amount and Number**

|                                | <u>Dollar Amount</u> | <u>Percent</u> | <u>Number</u> | <u>Percent</u> |
|--------------------------------|----------------------|----------------|---------------|----------------|
| Documented Quote               | \$ 18,752,951        | 6.34%          | 1,455         | 62.45%         |
| Invitation For Bid (Low Price) | \$ 57,589,767        | 19.47%         | 552           | 23.69%         |
| Request for Proposal           | \$210,925,817        | 71.32%         | 214           | 9.18%          |
| Published Sole Source          | \$ 8,472,834         | 2.86%          | 109           | 4.68%          |
| TOTAL                          | \$295,741,369        |                | 2,330         |                |

Ever since data was collected using the BIDS system beginning in FY1997-8, the procurement cycle time averages for each of these solicitation methods, from publication of the solicitation on BIDS, through evaluation, to award have been:

## *Article continued from page 3*

|                  | <u>Documented Quotes</u> | <u>Invitation for Bids</u> | <u>Requests for Proposal</u> |
|------------------|--------------------------|----------------------------|------------------------------|
| Total #          | 9234                     | 5329                       | 1051                         |
| Publication Time | 7.2 days                 | 16.2 days                  | 35.3 days                    |
| Evaluation Time  | 5.8 days                 | 12.9 days                  | 37.5 days                    |
| Total Days       | 13.0 days                | 29.1 days                  | 72.8 days                    |

These averages would not account for the time required by the agency and institution to write the specifications and develop the solicitation document before publication. Nor do the times include the contract execution and approval period after award.

Compared with other states, these averages are very favorable. Plus, Colorado is very progressive in setting its competition thresholds at levels that preserve discretion for agencies to choose sourcing strategies. When asked, Richard is open about expressing the opinion that “taking 73 days to advertise, evaluate, negotiate, revise proposals, and select contractors for \$1 million contracts doesn’t seem unreasonable.” There are initiatives underway in the procurement community – such as nonnumeric evaluations – aimed at further improving the process, but the overall picture looks OK right now.

We all know that the contract execution piece – that occurs after the award – can drive considerable time delays. The State Controller over the last several years has focused on limiting central approval to higher risk contracts. The FY04 statistics from 7/1/03—12/31/03 include:

### **State Controller’s Office**

Number of contracts received: 1313  
Average review time = 2.8 days  
FY03 contracts reviewed: 2544  
Average review time = 3.2 days

### **Human Resources/Personnel Services**

Number of contracts received: 312  
Average review time = 4.9 days  
FY03 contracts reviewed: 893  
Average review time = 5.2 days

### **Attorney General’s Office**

Number of contracts received: 810  
Average review time = 6.8 days  
FY03 contracts reviewed: 1978  
Average review time = 5.0 days

The error rate for this time period is at 24.5% which does not include an estimated additional 10-15% of contracts requiring clarification by agencies. The average agency internal review time is 33.0 days (note that actual agency review times exceed this, as not all agencies use COFRS to track and manage their internal review process). For prior year statistics, please see the November 03 issue of the *CURE*.

We were pleased to see the overall central approval times remaining below 14 days. The average agency times were somewhat surprising, considering the likelihood that the real averages are likely higher because not all agencies use CLIN for tracking internally. The figures overall validated the effectiveness in streamlining central approval reviews and getting the lower risk contracts out of the system. That has been done by:

- a. State Controller increase of the purchase order ceiling from \$25,000 to \$50,000 for personal services contracts, permitting agency/institution execution of personal services contracts without using bilateral contracts subject to legal review. This aligned the contract requirement with the small purchase requirements.
- b. Increased use of program waivers to permit some contracts to be entirely exempt from central review, including legal review. While we are still completing the analysis, year-to-date this year there are about 3,500 contracts on CLIN that are being executed in agencies without central approval.
- c. Elimination of a legal review requirement for contracts that are less than \$50,000 in value. This has resulted in increased workload in the State Controller's Office, as the Controller's commitment voucher examination is more demanding for the contracts now not receiving legal review. Interestingly, agencies were encouraged to seek controller delegation for approval of these contracts, although no agencies so far have sought this authority. We need your help on this: the "ask and you shall receive" principle applies here. We are openly encouraging delegation requests; this is a way to get several days out of your contracts processing times on \$50,000 contracts but eliminating Controller approval. All you have to do is ask! And the SCO can provide some guidance, resources, and training to your agency to help you.

We can get better, but Richard openly says that "he believes an overall 14 day cycle time for central contract approval – approved and rejected contracts -- for remaining contracts is reasonable." We believe that the increase in Personnel and Attorney General review times reflects the proportionate increase in complexity of contracts subject to central review and approval as we drive lower risk contracts out of the system. With the adoption of the \$5,000 threshold for personal services contracts review, Joi Simpson's program is seeing the more complicated contracts. And as Richard notes, "Robert doesn't have blocks of 20 identical \$5,000 contracts that he can turn-around in one day, drive the processing time average down, and make loads of money for the AGO by billing agencies for it!" like existed in the old days.

Interesting factoids: so far this year, the average time to entirely get through the legal review process (receipt by AG until the final approval, including the time agencies take to respond to issues raised by the AG) averages about 12 days. Contracts having no issues get through legal review in about 7 days. On contracts requiring second legal review, the AG's total review time averaged 9 days; the agency time to return the contract 14 days. The average "time premium" from having a contract rejected by the AG is about 16 days.

We all believe that there are opportunities to improve. We need to work on the error rate; none of us believe a 25% error rate -- higher if you consider pure clarification requests -- is acceptable. So far this year, there are 139 statutory violation errors on CLIN. Eliminating those alone would have dropped the overall error rate almost in half. Statutory violations use up everyone's time: contracts are sometimes stopped; justifications need to be prepared; and there is a review and approval process in our office. Overall, the SCO was recording a second review on 33% of the contracts sent to it (contracts either needing clarifications or having more serious problems). The AG was recording a second review on 21% of their contracts, and those added an additional 5 days to the processing.

We see completion of 2<sup>nd</sup> Edition of the *Manual* and refocus on training as the key focus to get the error rates down. But we need your help.

### **The Manual**

Some of you may not know, but the *Manual* has gotten national exposure and has been used by other states. It remains a great resource but needs revision. The current 2<sup>nd</sup> Edition *Manual* project team has completed the revisions to the first half of Chapter 6, which will add substantive sections on different contract types. Phil Holtmann has completed the master document for the remainder of the manual, and we are about ready to start "farming out" the remaining chapters for revisions and edits. The new *Manual* is expected to be the centerpiece for the contracts training.

### **Contract Training**

The Department of Personnel & Administration is evolving its statewide training approach. They are expected to move away from direct training delivery into more of a support role for facilitating training by functional experts. The two-part contract management/writing training has not been held since last Spring, and there is pent-up demand. CATF has been discussing combining the two-part contract management/writing course into a combined one-day training session. We'll be rolling out a proposal for comment (and participation!) soon. Our expectation is that some of you would participate in select modules during the day to help train and/or facilitate exercises during the training. We'll likely test-drive the training concept with some of you. Stay tuned . . .

**Integrated Procurement/Contracting Oversight**

A few weeks ago, Richard expressed his delight (we think the word was “tickled”) when he learned that Joi Simpson, Thirza Kennedy from State Purchasing, and Ron Keller from the State Controller’s Office were going to visit CSU on a peer review. Joi was a real leader in pushing for an integrated approach to these visits, which we hope help you and also fulfill our oversight responsibility. Ron Keller, an auditor in SCO, has been invaluable to the procurement card program, and his outlook on these peer/program reviews mirrors the division’s objectives: achieving meaningful, risk-based oversight with a training emphasis. He is working with our unit on an oversight approach in contracts. Richard has been emphasizing a risk-based oversight approach to our fulfilling our delegation monitoring obligations, and he and we really see these visits as satisfying a training need as well – both for you and for us. It keeps us in touch with your challenges in your operational environment, and helps us identify other improvements that we can make system-wide. I suspect there is value to each of you in having a visit like this. You can use these visits to promote your agendas, showcase your successes, and highlight the value of your office to the organization. We also all just plain learn from each other. Richard is openly applauding this initiative, as well as John Utterback and the rest of you who have seen the value of peer reviews and are working to make the broader vision a reality.

**Conclusion**

There are exciting things on the horizon, and we feel fortunate to be surrounded by dedicated people –those of you in CCIT and the Procurement Advisory Council – who are committed to improving our processes. There always is work to do, but we are very encouraged.

**On the World Wide Web at :**

**[www.sco.state.co.us/](http://www.sco.state.co.us/)**

**CONTRACT PROCEDURES AND MANAGEMENT**  
**MANUAL**

**[contract/contractprocedures.htm](http://contract/contractprocedures.htm)**

**CURE**  
**[cure/cure.htm](http://cure/cure.htm)**

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**PERSONAL SERVICES REVIEW PROGRAM**  
**AND RELATED FORMS**

**[www.state.co.us/hrs/contracts/index.htm](http://www.state.co.us/hrs/contracts/index.htm)**



## **PERSONAL SERVICES UPDATE**

**by Joi Simpson,  
Personal Services Contracts Specialist**

### **Pilot Program**

As we enter the fifth month of the pilot process, DHR is very pleased with the improved relationships that have taken place with the HR, contracting, and procurement community. As a result of the pilot, DHR has developed a Pilot Forum where participating departments can discuss issues or problems that are not just related to the pilot but also identify areas of improvement within in the personal services contracts process itself.

Prior to July 1, 2004, all departments participating in the pilot are expected to perform an evaluation of personal services contracts that are currently waived by the Department of Personnel & Administration/Division of Human Resources (DPA/DHR). This means that HR offices (for departments participating in the pilot), with the cooperation of purchasing and contracting professionals, will need to assess and understand their department's contracting needs and issues prior to issuing program waivers internal to their departments. Departments will need to document the assessment process and furnish DPA/DHR with a copy of the results of that analysis before they grant internal waivers.

Agency program waivers must be approved and issued by the department HR administrators. Waivers need to be in place by July 1, 2004, or HR offices will need to review all personal services requests.

Staff from the Department of Labor and Employment (DOLE) will be assisting DHR staff with the pilot evaluation. The evaluation process will help DHR determine if the processes developed during this pilot truly create efficiencies and further streamline the personal services process. In addition, the evaluation will focus on time saved, training needs, impact on department staff, additional risks, and provide valuable information to help determine if this process can and should be implemented statewide.

### **Contracting Issues**

When routing pre-approved personal services contracts through the central approvers, please remember to attach any approval letters or appropriate documentation to the contract. When contracts are routed for personal services review without the proper approval documentation, whether it is a service that is waived, a pre-approval, etc., the contract will be returned to the requesting department.





## Personal Services Article Continuation

Under the Personnel Director's Administrative Procedure, P-10-7, departments are required to submit solicitations for review and approval prior to award unless otherwise waived. As reported in the Division of Finance and Procurement's article, DHR has reviewed approximately 312 contracts in the 2nd quarter of 2004. A good portion of these contracts had a direct impact on the state personnel system and, therefore, more time was required for the review. However, another portion of these contracts didn't go through the prior approval process, and thus, contract review could have been avoided had the solicitation been reviewed up front. The time saved on a pre-approved contracts includes not only time in the central approver routing process, but most pre-approvals are granted for the life of the contract (this includes any amendments) as long as the contract continues to comply with the original approval as outlined in the solicitation. In other words, if the contract is for five years, the pre-approval is valid for five years and does not require review by DHR during that period, unless amendments change the scope of work or pricing.

For contracts that fall under CRS 24-50-503 and 24-50-504 (2)(a), these contracts are deemed to have a direct impact on the state personnel system. DHR cannot grant a pre-approval that allows final entry on these contracts because of the impact; however, during the pre-approval process, we have been able to identify issues that need to be addressed either in contract negotiations or in the final Cost Comparison. In this review process DHR will grant an initial approval to move forward with the solicitation, but further review and approval is required before the award to a contractor. This second review is to ensure that in fact a cost savings is realized, an evaluation of the impact on personnel system staff is done, and that all statutory requirements are met. All-in-all, we have found that solicitation pre-approvals are worth the effort in the long run.

### Independent Contract Versus Employment Contract

There have been rumors and discussions over the past year about retired or former state personnel system employees returning to perform the exact same function they performed during their tenure as an employee. The confusion has come out of not understanding the difference between a personal services contract and an employment contract.

In this article we hope to lay the rumors to rest. First and foremost, under CRS 24-18-201, a former employee may not enter into a personal services contract within six months of termination to perform duties directly related to what he or she performed as a state employee. A retiree or former employee can, however, come back as an employee (once PERA requirements are satisfied) in a permanent or temporary part-time position to perform the same functions as performed during his or her tenure.



## Personal Services Article Continuation

This is a business tactic often is used to help with the transition of a function. This mechanism has been used to assist departments with training issues and transfer of responsibilities. Sometimes trying to train a function requires more than a month or even six months. Departments have also retained former employees (as employees) to perform or assist with a seasonal function. In other words, a full-time staff person is not needed to carry out a function and it makes good business sense to utilize this individual because of background and experience, as no additional training is required. These individuals are not brought back as independent contractors, they are employees.

### Integrated Peer Review

DHR staff has been conducting audits through the procurement peer review process. This has been a great learning experience not only for DHR staff but for those two departments that have been reviewed to date. Best practices are being identified and will be highlighted as we move along. This process has been very eye-opening in helping staff determine where processes need to be cleaned up or modified on both sides of the table.

Here are just a few highlights of what we discovered so far.

Did you know that through the DOLE, you can obtain individuals to fulfill your temporary employment needs? During fiscal year 02-03, DOLE did not utilize any employment agencies for its temporary needs. Instead, they utilized their workforce development centers to employ state temporaries, thus saving time and money by not hiring through employment agencies. Interested agencies should contact the Human Resources Office with DOLE for more information.

The departments that DHR has meet with so far, have developed a working relationship between HR staff, contract staff, and procurement staff, that is critical to transitioning the personal services functions. These departments have made every effort to ensure that all three entities are “in the loop” which strengthens the communication and avoids greater errors, headaches and delays down the road.

### Other Issues

When Joi goes on leave in March, Don Fowler will assume the program coordinator duties for personal services. Don can be reached at [don.fowler@state.co.us](mailto:don.fowler@state.co.us) and 303.866.4250. Don will send out an email notifying folks of the change, and the same will occur upon Joi’s return.





## **CCIT (Colorado Contract Improvement Team) Meeting**

Wednesday, February 18, 2004

Camp George West – Golden, Colorado – Building 100

### **Agenda**

9:00—9:10 am.....Welcome.....Phil Holtmann, SCO

9:10—9:20 am.....Personal Services Update.....Joi Simpson, DPA/HRS

9:20—10:30 am..... Panel Discussion with the Central Approvers.....

10:30 —10:45 am.....B R E A K.....

10:45—11:45 am.....Training on Vendor Agreements.....  
by Richard Pennington & Robert Bowers

11:45—12:00 noon .....New Business & Questions.....

